



**APPENDIX F TO DIR CONTRACT NO. DIR-SDD-1360**  
**CUSTOMER SERVICES AGREEMENT**

This is a Customer Services Agreement ("Agreement") dated as of \_\_\_\_\_ (the "Effective Date") by and between \_\_\_\_\_ ("Customer"), having a place of business at \_\_\_\_\_, and CGI Technologies and Solutions Inc. ("CGI"), a Delaware corporation having its principal place of business at 11325 Random Hills Road, Fairfax, Virginia, 22030. This Agreement provides the terms and conditions on which CGI will provide technical support, software development and other services to Customer for one or more projects. Capitalized terms used in the Entire Agreement will have the meanings given in Section 15 or in the context in which the term is used.

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**1. SCOPE OF WORK**

- A. **Authorization to Perform Services.** Each separate project or CGI work assignment will be authorized by the execution of a Statement of Work. Each Statement of Work will constitute a separate contract between the signing parties incorporating the terms and conditions of this Agreement and DIR Contract No. DIR-SDD-1360 by reference. A Statement of Work may amend the terms and conditions of this Agreement as they apply to that particular Statement of Work, but only if the Statement of Work expressly identifies the section(s) that are being amended.
- B. **Affiliates.** An Affiliate of CGI may agree to provide the Services for Customer under a Statement of Work. If an Affiliate of CGI executes a Statement of Work, then for the purposes of that Statement of Work the term "CGI" as used in this Agreement, the DIR Contract and the Statement of Work will be interpreted as a reference to the CGI Affiliate, rather than to CGI itself.
- C. **Statement of Work Managers.** Each Statement of Work will identify the "Statement of Work Manager" for Customer, who will be authorized to give or obtain all information, decisions and approvals of Customer for that Statement of Work.

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**2. COMPENSATION**

- A. **Services Fees.** All fees shall be charged at the rates set forth in Appendix C of DIR Contract No. DIR-SDD-1360. The Statement of Work will state the method of payment for the Services. If no method of payment is stated in the Statement of Work, payment for the Services will be on a time and materials basis.
  - (1) **Fixed-Price Basis.** Charges for Services performed on a fixed-price basis will be based on the fixed-price specified in the Statement of Work plus Reimbursable Travel Expenses unless the Statement of Work provides expressly that Reimbursable Travel Expenses are included in the fixed-price. The Statement of Work will specify the percentage of the fixed-price to be paid by Customer upon the execution of the Statement of Work. Unless the applicable Statement of Work provides for payments against specific performance milestones, a pro-rata portion of the remaining fixed-price charges will be due and payable in monthly progress payments.
- B. **Invoices.** All invoicing shall be in accordance with Section 7.B. of Appendix A of DIR Contract No. DIR-SDD-1360. CGI will submit invoices to Customer for Services and Reimbursable Travel Expenses, in the period following the performance of the Services.



Invoices for any other amounts will be submitted to Customer as the amounts come due. CGI will address invoices as specified in the Statement of Work or, if no address is specified, to the Statement of Work Manager. Each invoice will identify the Statement of Work to which it relates. For any Services performed on a time and materials basis, the invoice will also state the total number of hours worked by billable labor category.

- C. **Reimbursable Travel Expenses.** All travel expenses shall be reimbursed in accordance with Section 4.G. of DIR Contract No. DIR-SDD-1360 and shall be approved in writing by the Customer prior to being incurred.
- D. **Taxes.** As per Section 151.309, Texas Tax Code, governmental Customers under this Agreement are exempt from the assessment of State sales, use and excise taxes. Further, governmental Customers under this Agreement are exempt from Federal Excise Taxes, 26 United States Code Sections 4253(i) and (j).
- E. **Payment Terms.** All fees and expenses are to be paid to CGI in United States Dollars, by electronic funds transfer to an account designated by CGI or by check sent to CGI Technologies and Solutions Inc. at 15038 Collections Center Drive, Chicago, IL 60693. All payments shall be in accordance with Section 7.C. of Appendix A of DIR Contract No. DIR-SDD-1360.

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### 3. CUSTOMER RESPONSIBILITIES

- A. **Customer Personnel, Facilities and Resources.** Customer will provide CGI with timely access to appropriate Customer personnel and will arrange for CGI personnel to have suitable and safe access to Customer's facilities and systems. Customer will also provide suitable office space and associated resources for CGI personnel working on-site, including all necessary computing and office support resources, and will undertake any other responsibilities described in the Statement of Work. The Statement of Work or the Project Plan will also specify any tasks or activities for which Customer is responsible and, if applicable, those tasks or activities that will be performed jointly by Customer and CGI.
- B. **Approvals and Information.** Customer will respond promptly to any CGI request to provide information, approvals, decisions or authorizations that are reasonably necessary for CGI to perform the Services in accordance with the Statement of Work. If neither the Statement of Work nor the associated Project Plan specify a period for Customer's response, CGI will specify a reasonable time period in the context of the project schedule. CGI's request may also describe the course of action CGI intends to follow if it does not receive a timely response from Customer, which may include suspension of the affected Services. CGI will be entitled to follow the described course of action in the absence of a timely response from Customer. Any subsequent change requested by Customer will be subject to mutual agreement and may result in a Change Order.
- C. **Use and Verification.** Customer is responsible for the results of using the software, hardware, equipment, Services and Key Deliverables in its business operations. Customer is also responsible for independent verification and testing of such results prior to using them in its business.

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### 4. CHANGE ORDERS

- A. **Changes to Statements of Work.** Either party may propose changes to the scope or time schedule of the Services under a Statement of Work. Requests for changes will be



submitted to the other party in writing for consideration of feasibility and the likely effect on the cost and schedule for performance of the Services. The parties will mutually agree upon any proposed changes, including resulting equitable adjustments to costs and schedules for the performance of the Services. The agreed changes will be documented in one or more Change Orders.

- B. **Customer Delays.** If action or inaction by Customer, or its suppliers' failure to perform their responsibilities in a timely manner, prevents CGI from or delays CGI in performing the Services, CGI will be entitled to an equitable adjustment in the schedule for performance and the compensation otherwise payable to it under the applicable Statement(s) of Work. In such event, the parties will mutually agree upon a Change Order documenting the adjustments.
- C. **Effect on Statement of Work Prices.** Amounts payable pursuant to Change Orders will be in addition to any fixed prices or funding limitations on time and materials charges or Reimbursable Travel Expenses.

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## 5. NOT AN EXCLUSIVE AGREEMENT

**Nonexclusive Agreement.** This Agreement does not grant to CGI any exclusive rights to do business with Customer. Customer may contract with other suppliers for the procurement of comparable services. Customer makes no commitment for any minimum or maximum amount of Services to be purchased under this Agreement. Likewise, nothing in this Agreement will prevent CGI from marketing, developing, using and performing services or products similar to or competitive with the services and products furnished to Customer.

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## 6. PROPRIETARY RIGHTS

- A. **Pre-existing CGI Materials, Third-Party Materials, and Open Source Software.** Any pre-existing CGI materials, third-party materials, Open Source software, and derivatives thereof, incorporated in a Key Deliverable or necessary to use a Key Deliverable will be licensed to Customer under separate license terms. Such license terms will be, as appropriate, set forth in a license agreement i) executed between CGI and Customer, or ii) obtained by Customer from the applicable third party vendor, or iii) in the case of Open Source software, the license terms set forth in the applicable Open Source license agreement. Customer acknowledges that a separate license fee may be charged by CGI or the third-party vendor for any such licensed materials.
- B. **Developed Materials.** CGI will own all intellectual property rights, title and interest in and to all work products developed by it under the Entire Agreement. Subject to payment in full by Customer of all amounts owed to CGI under the applicable Statement of Work, CGI grants to Customer an irrevocable, nonexclusive, royalty-free right and license to use, execute, reproduce, modify and create derivative works from such work products for Customer's own internal use.
- C. **Customer Data and Materials.** Customer hereby grants to CGI a nonexclusive, royalty-free license to use any Customer data and materials provided by it to CGI during the Term of this Agreement solely and exclusively for the purpose of performing the Services for Customer.
- D. **Reservation of Rights.** Neither party will be prevented from using ideas, concepts, expressions, know-how, skills and experience possessed by it prior to, or developed or learned by it in the course of, performance under the Entire Agreement. The provisions



of Section 7 do not prevent CGI from describing to potential Customers any Services or Software Deliverables provided by CGI under the Entire Agreement, so long as CGI removes Customer's Confidential Information and any identifying references to Customer.

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## 7. NONDISCLOSURE

- A. **"Confidential Information"**. "Confidential Information" means, to the extent consistent with the Texas Public Information Act, information belonging to or in the possession of a party which is confidential or a trade secret and is furnished or disclosed to the other party under the Entire Agreement (including information exchanged in contemplation of entering into the Entire Agreement): (i) in tangible form and marked or designated in writing in a manner to indicate it is confidential or a trade secret; or (ii) in intangible form and that either is of a nature that a reasonable person would understand to be confidential or a trade secret or is identified as confidential or a trade secret in a writing provided to the receiving party within thirty (30) business days after disclosure.
- B. **Exclusions**. "Confidential Information" does not include any information that, as evidenced by written documentation: (i) is already known to the receiving party without restrictions at the time of its disclosure by the furnishing party; (ii) after its disclosure by the furnishing party, is made known to the receiving party without restrictions by a third party having the right to do so; (iii) is or becomes publicly known without violation of the Entire Agreement; (iv) is independently developed by the receiving party without reference to the furnishing party's Confidential Information; or (v) is required to be disclosed pursuant to the Texas Public Information Act.
- C. **Standard of Care**. Confidential Information will remain the property of the furnishing party, and the receiving party will not be deemed by virtue of the Entire Agreement or any access to the furnishing party's Confidential Information to have acquired any right, title or interest in or to the Confidential Information. The receiving party agrees, to the extent allowed by the Texas Public Information Act: (i) to hold the furnishing party's Confidential Information in strict confidence affording the furnishing party's Confidential Information at least the same level of protection against unauthorized disclosure or use as the receiving party normally uses to protect its own information of a similar character, but in no event less than reasonable care; (ii) to limit disclosure of the furnishing party's Confidential Information to personnel furnished by the receiving party to perform Services under a Statement of Work or otherwise having a need to know the information for the purposes of the Entire Agreement; (iii) not to disclose any such Confidential Information to any third party; (iv) to use the furnishing party's Confidential Information solely and exclusively in accordance with the terms of the Entire Agreement in order to carry out its obligations and exercise its rights under the Entire Agreement; and (v) to notify the furnishing party promptly of any unauthorized use or disclosure of the furnishing party's Confidential Information and cooperate with and assist the furnishing party in every reasonable way to stop or minimize such unauthorized use or disclosure.
- D. **Compelled Disclosure**. If the receiving party receives a subpoena or other valid administrative or judicial notice requesting the disclosure of the furnishing party's Confidential Information, the receiving party will promptly notify the furnishing party. If requested, the receiving party will provide reasonable cooperation to the furnishing party in resisting or limiting the disclosure at the furnishing party's expense. Subject to its

obligations stated in the preceding sentence, the receiving party may comply with any binding subpoena or other process to the extent required by law.

- E. **Return or Destruction.** Upon termination or expiration of this Agreement and all Statements of Work issued under this Agreement, the receiving party, at the furnishing party's option, will return or destroy, if authorized under applicable records retention laws and policies, all Confidential Information of the furnishing party that the receiving party does not possess under a valid license; provided that CGI may retain one (1) copy of all of its work products (including working papers) produced under the Entire Agreement for archival purposes.
- F. **Relief.** If a court of competent jurisdiction determines that the receiving party has breached, or attempted or threatened to breach, any of its confidentiality obligations to the furnishing party or the furnishing party's proprietary rights, money damages will not provide an adequate remedy. To the extent authorized by Texas Law and Constitution, the furnishing party may seek appropriate injunctive relief and other measures restraining further attempted or threatened breaches of such obligations.

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## 8. ACCEPTANCE

- A. **Procedures, In General.** Acceptance of Key Deliverables will be conducted in accordance with the following procedures. All time periods specified in the following procedures are defaults that may be overridden by the applicable Statement of Work.
- B. **Written Deliverables.** CGI may submit interim drafts of a Written Deliverable to Customer for review. Customer agrees to review and provide comments to CGI on each interim draft within five (5) business days after receiving it from CGI. Customer will have the opportunity to review the Written Deliverable for an acceptance period of ten (10) business days after delivery of the final version of the Written Deliverable (the "Acceptance Period"). Customer agrees to notify CGI in writing by the end of the Acceptance Period either stating that the Written Deliverable is accepted in the form delivered by CGI or describing in reasonable detail any substantive deficiencies that must be corrected prior to acceptance of the Written Deliverable. If CGI does not receive any such deficiency notice from Customer by the end of the Acceptance Period, the Written Deliverable will be deemed to be accepted. If Customer delivers to CGI a timely notice of deficiencies and the items specified in the notice are deficiencies, CGI will correct the described deficiencies within a reasonable period of time. CGI's correction efforts will be made at no additional charge if the Written Deliverable is being developed under a fixed-price Statement of Work. If the Written Deliverable is being developed on a time and materials basis, CGI's correction efforts will be made on a time and materials basis. Upon receipt of a corrected Written Deliverable from CGI, Customer will have a reasonable additional period of time, not to exceed ten (10) business days, to review the corrected Written Deliverable to confirm that the identified and agreed-upon deficiencies have been corrected. Customer will not unreasonably withhold, delay or condition its approval of a final Written Deliverable.
- C. **Software Deliverables.** Acceptance testing is an iterative process designed to determine whether the Software Deliverable performs the functions described in its approved Specifications and to discover and remove Nonconformities through repeated testing cycles. As used in this Agreement, "Nonconformity" means a reproducible condition in a Software Deliverable that prevents the Software Deliverable from performing the functions described in its Specifications such that the Software Deliverable does not



operate or cannot be used in a production environment. At least forty-five (45) days prior to the date on which CGI is scheduled to deliver any Software Deliverable to Customer, Customer will deliver for CGI's review proposed testing procedures for the Software Deliverable, including without limitation the detailed test scripts, test cases, test data and expected results. At least thirty (30) days prior to the date on which CGI is scheduled to deliver the Software Deliverable to Customer, the parties will agree upon the testing procedures for the Software Deliverable (the "Acceptance Tests" or "Acceptance Testing").

- (1) The "Acceptance Test Period" for each Software Deliverable will be thirty (30) days. The Acceptance Test Period for each Software Deliverable will begin when CGI has completed and delivered the Software Deliverable to Customer's designated site, successfully completed CGI's installation test and notified Customer that the Software Deliverable is "Ready for Acceptance." CGI will not be obligated to deliver a Software Deliverable to Customer until Customer demonstrates the readiness of the target technical platform and environment, as described and according to the schedule specified in the Statement of Work.
- (2) Customer will start to perform Acceptance Testing on each Software Deliverable promptly after receiving CGI's notice that the Software Deliverable is ready for Acceptance. Customer's Acceptance Testing will consist of executing test scripts from the Acceptance Tests during the Acceptance Test Period. If Customer determines during the Acceptance Test Period that the Software Deliverable contains a Nonconformity, Customer will promptly send CGI a written notice Reporting the alleged Nonconformity. A Nonconformity will be considered "Reported" only if it is described to CGI in sufficient detail to allow CGI to recreate it. CGI will modify the Software Deliverable to remove the Reported Nonconformity and will provide the modifications to Customer for re-testing. Customer will then re-test the modified portions of the Software Deliverable promptly after receiving the modifications from CGI.
- (3) By the end of the Acceptance Test Period Customer will provide CGI with a final written list Reporting any outstanding Nonconformities (the "Punch List"). CGI will modify the Software Deliverable to remove the Nonconformities that are Reported on the Punch List and will provide the modifications to Customer. Customer will have fifteen (15) business days after receipt of the modifications to re-test the modified Software Deliverable to confirm that the Nonconformities that are Reported on the Punch List have been removed. If any Nonconformities that were Reported on the Punch List have not been removed, Customer will provide CGI with written notice by the end of the re-testing period Reporting any such Nonconformities. In such event, the procedures set forth in this Section 8.C(3) will be repeated for the remaining Nonconformities on the Punch List.
- (4) CGI and Customer each agrees to work diligently to achieve acceptance of Software Deliverables at the earliest possible date, and Customer will work diligently to put the Software Deliverable in live production operations. Acceptance of a Software Deliverable will take place when any of the following events occurs: (i) Customer gives CGI written notice of acceptance; (ii) Customer uses the Software Deliverable or any substantial portion of it in live production operations; (iii) the Acceptance Test Period expires without Customer



having given CGI the Punch List; or (iv) the re-testing period expires without Customer having Reported any remaining Nonconformities on the Punch List.

- (5) CGI's modifications made pursuant to this Section 8 will be made at no additional charge if the Software Deliverable is being developed under a fixed-price Statement of Work. If the Software Deliverable is being developed on a time and materials basis, CGI's modifications made pursuant to this Section 8 will be made on a time and materials basis.
- (6) If, after a reasonable number of repeated efforts, CGI is unable to remove a Reported Nonconformity preventing acceptance of a Software Deliverable, Customer will be entitled to receive an equitable adjustment in the amounts payable to CGI for the Software Deliverable (up to the total amount payable for the Software Deliverable under the applicable Statement of Work) to reflect any reduction in the value of the Software Deliverable as a result of the Reported Nonconformity that has not been removed.

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## 9. LIMITED WARRANTIES AND REMEDIES FOR BREACH OF WARRANTY

- A. **Quality of Services.** CGI warrants, for a period of thirty (30) days after performance of Services, that the Services will be performed in a workmanlike manner consistent with industry standards reasonably applicable to the performance of such Services. If Customer believes there has been a breach of this warranty, it must notify CGI in writing within the warranty period stating in reasonable detail the nature of the alleged breach. If there has been a breach of this warranty, then CGI's sole obligation, and Customer's exclusive remedy, will be for CGI to correct or re-perform, at no additional charge, any affected Services to cause them to comply with this warranty. However, if CGI is unable to correct a breach of this warranty after repeated efforts, Customer will also be entitled to receive an equitable adjustment in the CGI charges (up to the total amount of such charges under the applicable Statement of Work) for the Services in question to reflect any reduction in the value of the Services as a result of the uncorrected breach of warranty.
- B. **Software Deliverables Produced on a Fixed-Price Basis.** CGI warrants that, during any Warranty Period specified in the applicable Statement of Work (or if no Warranty Period is specified in the Statement of Work, for a period of thirty (30) days from delivery), each Software Deliverable developed on a fixed-price basis and delivered under that Statement of Work will continue to perform the functions described in its Specifications without Defects. As used in this Agreement, "Defect" means a reproducible material deviation of a Software Deliverable from its Specifications. If Customer believes there has been a breach of this warranty, it must notify CGI in writing within the Warranty Period describing the Defect in sufficient detail to enable CGI to recreate it. If there has been a breach of this warranty, then CGI's sole obligation, and Customer's exclusive remedy, will be for CGI to correct the Defect at no additional charge. However, if CGI is unable to correct a breach of this warranty after repeated efforts, Customer will also be entitled to an equitable adjustment in the CGI charges (up to the total amount of such charges under the applicable Statement of Work) for the Software Deliverable to reflect any reduction in the value of the Software Deliverable as a result of the uncorrected Defect.
- C. **Investigation and Correction.** CGI may investigate and correct breaches of warranty at CGI's offices to the extent possible. If Customer requires CGI to travel to Customer's



place of business to correct a breach of warranty that could have reasonably been corrected at CGI's place of business, Customer will reimburse CGI for Reimbursable Travel Expenses of CGI's personnel in accordance with Section 4.G. of DIR Contract No. DIR-SDD-1360. If a reported breach of warranty is attributable to a cause other than a breach of the applicable CGI warranty, then CGI will be entitled to payment for its investigation and correction efforts on a time and materials basis at the rates set forth in DIR Contract No. DIR-SDD-1360, Appendix C and applicable to the Statement of Work pursuant to Section **Error! Reference source not found.**

D. **Noninfringement.** CGI warrants that any original works of authorship developed by CGI personnel under a Statement of Work, including their use by Customer in unaltered form, will not, to CGI's knowledge, infringe any third party copyrights, patents or trade secrets that exist on the Effective Date and that arise or are enforceable under the laws of the United States of America.

- (1) If a third party brings an action against Customer making allegations that, if true, would constitute a breach of this warranty, then CGI will, at its own expense and subject to the infringement indemnity provisions of Section 9.A.2) of Appendix A of DIR Contract No. DIR-SDD-1360, defend, indemnify and hold Customer harmless in such proceeding, and CGI will pay all settlements, costs, damages and legal fees finally awarded.
- (2) If such a proceeding is brought or appears to CGI to be likely to be brought, CGI may, at its sole option and expense, either obtain the right for Customer to continue using the allegedly infringing item(s) or replace or modify the item(s) to resolve such proceeding. If CGI finds that neither of these alternatives is available to it on commercially reasonable terms, CGI may require Customer to return the allegedly infringing item(s), in which case Customer will receive a refund of the amounts paid by it for the returned item(s), less a reasonable adjustment for depreciation of the returned item(s).

This Section 9.D states CGI's entire obligation to Customer and Customer's exclusive remedy with respect to any claim of infringement and is in lieu of any implied warranties of non-infringement or non-interference with use and enjoyment of information.

E. **Exclusions.** CGI is not responsible for any claimed breaches of the foregoing warranties caused by: (i) modifications made to the item in question by anyone other than CGI and its subcontractors working at CGI's direction; (ii) the combination, operation or use of the item with other items CGI did not supply; (iii) Customer's failure to use any new or corrected versions of the item made available by CGI; or (iv) CGI's adherence to Customer's specifications or instructions. CGI does not warrant that the operation of software, hardware, equipment or Key Deliverables provided by CGI will be uninterrupted or error-free.

F. **Third-Party Products.** To the extent CGI has the legal right to do so, CGI agrees to assign or pass through to Customer or otherwise make available for the benefit of Customer, any manufacturer's or supplier's warranty applicable to any third-party software, hardware or equipment provided by CGI under a Statement of Work. CGI does not itself give or make any warranty of any kind with respect to third-party software, hardware or equipment.

G. **Disclaimer.** THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A





PARTICULAR PURPOSE, INTEGRATION, PERFORMANCE AND ACCURACY AND ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

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**10. INDEMNIFICATION**

- A. **Indemnification.** Indemnification shall be in accordance with Section 9.A. of Appendix A of the DIR Contract No. DIR-SDD-1360.
- B.

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**11. TERM AND TERMINATION**

- A. **Term.** This Agreement will commence on the Effective Date, and will expire on the first (1st) anniversary of that date unless sooner terminated as provided in this Section 11. This Agreement may be renewed for one (1) additional one (1) year period, by a party issuing its notice of intent for renewal in writing at least sixty (60) calendar days prior to the then-effective expiration date.
- B. **Termination.** Termination shall be in accordance with Section 10.B. of Appendix A of the DIR Contract No. DIR-SDD-1360.
- (1)
- C. **Survival.** Any provision of the Entire Agreement that imposes or contemplates continuing obligations on a party will survive the expiration or termination of the Contract Document in which it is contained. The termination of any particular Statement of Work will not affect the parties' respective rights, duties and obligations under any other Statements of Work then in effect. If this Agreement expires or is terminated, its terms and conditions will continue to apply to any Statements of Work then in effect until the Statements of Work expire or are terminated.

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**12. LIMITATION OF LIABILITY AND REMEDIES**

- A. **Limitations.** If Customer should become entitled to claim damages from CGI for any reason (including without limitation, for breach of contract, breach of warranty, negligence or other tort claim), CGI will be liable only for the amount of Customer's actual direct damages up to the amount that Customer paid CGI for the items or Services that are the subject of the claim. In no event, however, will CGI be liable to Customer (in the aggregate for all claims made with respect to a Statement of Work) for more than the amount paid by Customer to CGI under the applicable Statement of Work for the three (3) month period just prior to the claim. In addition, in no event will CGI's aggregate liability for all claims arising under or relating to the Entire Agreement exceed the total amount paid to CGI by Customer under the Entire Agreement. These limits also apply to CGI's subcontractors. They are the maximum liability for which CGI and its subcontractors are collectively responsible.
- B. **No Liability for Certain Damages.** In no event will CGI or any person or entity involved in the creation, manufacture or distribution of any software, services or other materials provided by CGI under the Entire Agreement be liable for: (i) any damages arising out of or related to the failure of Customer to perform their responsibilities; (ii) any claims or demands of third parties (other than those third party claims covered by Section 9.A. of Appendix A of DIR Contract No. DIR-SDD-1360); or (iii) any lost profits, loss of business, loss of data, loss of use, lost savings or other consequential,



special, incidental, indirect, exemplary or punitive damages, even if CGI has been advised of the possibility of such damages.

- C. **Exclusions from Limitation; Survival.** The foregoing limitations do not apply to the payment of settlements, costs, damages and legal fees referred to in Section 9.A. of Appendix A of DIR Contract No. DIR-SDD-1360, or to any claims by Customer for reimbursement under Section 9.A. of Appendix A of DIR Contract No. DIR-SDD-1360. The limitations of liability set forth in this Section 12 will survive and apply notwithstanding the failure of any limited or exclusive remedy for breach of warranty set forth in the Entire Agreement. The parties agree that the foregoing limitations will not be read so as to limit any liability to an extent that would not be permitted under applicable law.

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### 13. LAW AND DISPUTES

- A. **Governing Law.** The Entire Agreement will be governed by the laws of the Texas. Nothing herein shall be construed to waive the sovereign immunity of the State of Texas.
- B. **Export Control.** Both CGI and Customer agree to comply fully with all relevant export laws and regulations of the United States to ensure that no information or technical data provided pursuant to the Entire Agreement is exported or re-exported directly or indirectly in violation of law.
- C. **Dispute Resolution.** Dispute Resolution shall be in accordance with Section 10.A. of Appendix A of DIR Contract No. DIR-SDD-1360.

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### 14. GENERAL

- A. **Notices.** Notices shall be in accordance with Section 11.A. of Appendix A of DIR Contract No. DIR-SDD-1360.

In the case of Customer:	with a copy of legal notices to:
_____	_____
_____	_____
_____	_____
Attn: _____	Attn: _____
Fax: _____	Fax: _____
In the case of CGI:	with a copy of legal notices to:
CGI Technologies and Solutions Inc.	CGI Technologies and Solutions Inc.
_____	11325 Random Hills Road, 8 <sup>th</sup> Floor
_____	Fairfax, VA 220303
Attn: _____	Attn: Office of General Counsel
Fax: _____	Fax: 703-267-7288

- B. **Force Majeure.** Force Majeure shall be in accordance with Section 10.C. of Appendix A of DIR Contract No. DIR-SDD-1360.
- C. **Reasonable Behavior.** Each party will act in good faith in the performance of its respective responsibilities under the Entire Agreement and will not unreasonably delay, condition or withhold the giving of any consent, decision or approval that is either requested or reasonably required by the other party in order to perform its responsibilities under the Entire Agreement.

- D. **Assignment.** Assignment shall be in accordance with Section 4.D. of Appendix A of DIR Contract No. DIR-SDD-1360.
- E. **Integration.** DIR Contract No. DIR-SDD-1360 and the Entire Agreement constitute the entire agreement between the parties, and supersede all other prior or contemporaneous communications between the parties (whether written or oral) relating to the subject matter of the Entire Agreement. The Entire Agreement may be modified or amended solely in a writing signed by both parties. The parties agree that any pre-printed terms contained in Customer's purchase orders, acknowledgments, shipping instructions, or other forms or in CGI's invoices, that are inconsistent with or different from the terms of the Entire Agreement will be void and of no effect even if signed by the party against which their enforcement is sought.
- F. **Severability.** The provisions of the Entire Agreement will be deemed severable, and the unenforceability of any one or more provisions will not affect the enforceability of any other provisions. In addition, if any provision of the Entire Agreement, for any reason, is declared to be unenforceable, the parties will substitute an enforceable provision that, to the maximum extent possible under applicable law, preserves the original intentions and economic positions of the parties.
- G. **Order of Precedence.** In the event of any conflict between or among the provisions contained in the Entire Agreement, the following order of precedence will govern: (i) DIR Contract No. DIR-SDD-1360; (ii) this Agreement, exclusive of its Exhibits; (iii) Exhibits to this Agreement; (iv) Statements of Work (except as to terms specifically identified in a particular Statement of Work as modifying or amending terms of this Agreement, which terms will control over the Agreement for that Statement of Work only); and (v) in the event of a conflict between Section 8 of DIR Contract No. DIR-SDD-1360 and Section 6.B, Developed Materials of this Agreement, Section 6.B. of this Agreement shall control. In the event of a conflict between any of these documents, DIR Contract No. DIR-SDD-1360 will control.
- H. **Publicity.** Neither party may use the name of the other in connection with any advertising or publicity materials or activities without the prior written consent of the other party. However, CGI may include Customer's name on CGI's Customer list and may describe briefly, and in general terms, the nature of the work performed by CGI for Customer. The parties further agree that, within a reasonable time following final acceptance of the Software Deliverables under a Statement of Work, the parties will work toward developing a mutually agreeable statement for public use by the parties such as in marketing materials and in their reports to stockholders. The parties agree that any such mutually agreeable statements should properly attribute to CGI any Software Deliverables or other materials provided by CGI.
- I. **No Waiver.** No failure or delay by a party in exercising any right, power or remedy will operate as a waiver of that right, power or remedy, and no waiver will be effective unless it is in writing and signed by the waiving party. If a party waives any right, power or remedy, the waiver will not waive any successive or other right, power or remedy the party may have under the Entire Agreement.
- J. **Third Party Beneficiaries.** There are no intended third party beneficiaries of any provision of the Entire Agreement.
- K. **Nonsolicitation.** During the term of the Entire Agreement and for twelve (12) months after its expiration or termination, neither party will directly solicit for employment or employ (except as permitted below) by itself any employee of the other party who was



involved in the performance of the party's obligations under the Entire Agreement, unless the hiring party obtains the written consent of the other party. The foregoing provision will not prohibit a general solicitation of employment in the ordinary course of business or prevent either party from employing any employee who contacts such party as a result of such a general solicitation or at his or her own initiative without any direct or indirect solicitation by or encouragement from such party.

- L. **Exhibits**. The Exhibits referred to in and attached to this Agreement are made a part of it as if fully included in the text.

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## 15. DEFINITIONS

Capitalized terms used in the Entire Agreement will have the meanings given below or in the context in which the term is used, as the case may be.

- A. "Affiliate" of a party means any other entity that directly or indirectly controls, or is under common control with, or is controlled by, the party. As used in this definition, "control" means actual or equitable ownership of a majority of the shares (or other securities, partnership interests or means of ownership, as the case may be) of an entity.
- B. "Change Order" means a written amendment to a Statement of Work that is prepared and signed by authorized representatives of both parties.
- C. "Entire Agreement" means this Agreement, DIR Contract No. DIR-SDD-1360 and all Statements of Work issued under this Agreement, as well as any amendments or Change Orders to any of them.
- D. "Key Deliverables" mean any materials to be developed by CGI that are designated in a Statement of Work as being subject to a formal acceptance process upon delivery to Customer. Key Deliverables may be either Written Deliverables or Software Deliverables.
  - (1) "Software Deliverables" mean Key Deliverables that are operational software (either a completed system or any module, subsystem or release).
  - (2) "Written Deliverables" mean Key Deliverables that are documents, such as reports, system designs or documentation.
- E. "Project Plan" means a document that states in detail the responsibilities of and tasks for each party under a particular Statement of Work. A Project Plan may be amended in writing by mutual agreement of the parties. The amended Project Plan, once effective, will supersede all prior Project Plans for the applicable Statement of Work.
- F. "Services" mean the technical support, software development and other services provided by CGI pursuant to a Statement of Work.
- G. "Specifications" mean a mutually agreed upon document that describes with particularity the functions to be performed by a Software Deliverable and that is designated in the Statement of Work under which the Software Deliverable is being developed as the specifications for that Software Deliverable.
- H. "Statement of Work" means a document describing the Services that CGI agrees to perform for Customer. Each Statement of Work will be substantially in the form attached as *Exhibit A* and signed by authorized representatives of both parties.



Each party has caused its authorized representative to execute this Agreement as of the Effective Date.

CGI Technologies and Solutions Inc. (CGI)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
(Customer)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



## CUSTOMER SERVICES AGREEMENT

### EXHIBIT

A

#### Statement of Work Form

#### STATEMENT OF WORK No. \_\_\_\_

This Statement of Work Number \_\_\_\_ is issued pursuant to the Customer Services Agreement dated as of \_\_\_\_\_ (the "Agreement") between \_\_\_\_\_ ("Customer") and CGI Technologies and Solutions Inc. ("CGI"). This Statement of Work incorporates the terms and conditions of the Agreement as if the Agreement were fully set forth in the text of this Statement of Work.

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1. **Effective Date of this Statement of Work.**

This Statement of Work is effective as of *[insert effective date]* *[for time and materials also insert the date through which the Statement of Work is effective]*.

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2. **Services to be Performed and Schedule of Performance.**

*[Insert description of Services to be performed.]*

CGI will provide to Customer monthly written reports of the progress of the work.

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3. **Deliverables.**

*[If there are no Key Deliverables that are subject to acceptance testing, do not include this section:]* The following are the Written Deliverables and Software Deliverables subject to acceptance testing under this Statement of Work: *[List the Written Deliverables and Software Deliverables to be provided and the schedule for performing the Services. For each Software Deliverable, specify the design specifications or the document containing the design specifications for the Software Deliverable, their respective acceptance criteria, as well as the acceptance tests and procedures to be employed. Specify the duration of the Acceptance Test Period (the default in the Agreement is thirty (30) days). If this is a fixed-price Statement of Work, specify any Warranty Period that is to begin on Acceptance of the Software Deliverable.]*

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4. **Compensation.**

A. **Method:** *[check one]*

☐ **Fixed-Price Basis.** Fixed Price: \_\_\_\_\_, not including Reimbursable Travel Expenses. *[Estimated Reimbursable Travel Expenses: \_\_\_\_\_, not including taxes.]* Customer will pay \_\_\_\_\_% of the fixed-price upon the execution of this Statement of Work. The remaining portion of the fixed-price will be due and payable in accordance with the following schedule: *[Insert milestone payment schedule.]*

☐ **Other Basis.** *[Specify method of compensation.]*

B. **Payment Terms:** Payment shall be in accordance with Section 7.C. of Appendix A of DIR Contract No. DIR-SDD-1360.



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5. **Statement of Work Managers.**

The Statement of Work Managers are:

<u>CGI</u>	<u>Customer</u>	
_____	_____	
_____	_____	

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6. **Resources and Responsibilities of Customer.**

Customer will provide the following resources and has the following responsibilities in supporting CGI's performance of the Services:

- A. Services or Support: *[Describe any portions of the project that are to be performed by Customer or provided by Customer to CGI. In addition, describe any support functions that are to be performed by Customer].*
- B. Facilities and Equipment: *[Describe any facilities, equipment, tools, supplies, telephone lines and service, office support and other sorts of equipment, facilities, or related items other than as provided in the Agreement.]*
- C. Environments: *[Specify any development, testing, implementation or other environments to be provided by Customer].*
- D. Proprietary Materials: *[List any proprietary materials to be provided by Customer.]*
- E. Other:

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7. **Other Provisions.**

*[Insert any additional terms agreed to by the parties.]*

Agreed to and accepted by:

CGI Technologies and Solutions Inc. (CGI)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Customer)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_